MEMORIAL

OF THE

GALENA AND CHICAGO UNION RAILROAD COMPANY,

Asking a Right of Way through the Public Lands.

January 3, 1837.—Referred to the Committee on Roads and Canals.
January 20, 1837.—Ordered to be printed.

To the Senate and House of Representatives in the Congress of the United States assembled :

The memorial of the President, Directors, and Stockholders of the Galena and Chicago Union Railroad Company

RESPECTFULLY REPRESENTS :

That, by an act of the Legislature of the State of Illinois, passed on the 16th day of January, 1836, a company was incorporated for the term of sixty years from the passage of the act, for the purpose of constructing a railroad from the town of Galena, on Fever river, six miles from the Mississippi river, to the town of Chicago, on Lake Michigan, in the said State of Illinois, as will appear from the charter of said company, and to which your memorialists more particularly refer for the character of said act.

Your memorialists further represent that, in pursuance of the powers contained in said act of incorporation, a full million of dollars of the stock of said company has been subscribed, and the first instalment thereon paid; that an experienced engineer is now actually engaged in making the survey of the line of the said road, and preparing the estimates of the cost of constructing the same, preparatory to the commencement of the work, which it is *bona fide* the intention of your memorialists to commence, without delay, so soon as the said survey and estimates shall have been completed. The probable length of the whole line of the road will be about one hundred and fifty miles, and will pass through a large portion of the unsurveyed public lands of the United States which lie on the line of route. It will therefore be obvious to your honorable body, that, to enable your memorialists to construct a large portion of this work, it is indispensably necessary that the corporation should obtain a permanent right of way over so much of the land along the line as the Government of the United States owns. It is also of more importance to the success of this enterprise, that, in addition to the right of way, the company should obtain a pre-emption right of purchase of one section of the public lands on each side of the line of the route, for the purpose of aiding them in effectuating the completion of the work.

[Gales & Seaton, print.]

Your memorialists further represent that, for the purpose of securing this right of way, and obtaining the ownership of the land, the corporation are disposed to offer to the Government, what must be admitted to be not only a fair but an exceedingly liberal equivalent. They propose that, by an act of your honorable body, the right of way necessary to the construction of the proposed railroad, and for *depots*, and the erection of toll-houses, and other appendages thereto, not exceeding three hundred yards in width along the line of the route where the same shall pass over the public land of the United States, be ceded to the president and directors of the said company, and to their successors forever, in fee simple; and that they be further permitted, within twelve months after the passage of the act, to purchase the public lands by pre-emption right or previous right of purchase, one mile or section in depth from the said way, on each side of the line of the route, which shall be reserved from sale for such purpose, at the minimum price of the public lands, on a credit of ten years. For which privilege, the corporation propose to carry the public mails *daily*, if required, or at such other times as the Post Office Department may require, not being oftener than the time stated, on the said road, as fast as sections of five miles or more of the road shall have been completed, during the whole period of time for which the charter has been granted.

To duly estimate the important nature of this proposition, and to fairly appreciate the liberality of its character, your memorialists will not more than advert to the probable amount of yearly compensation which would be demanded upon a similar length of line of railroad for the daily transportation of the mail. The amount would, in the opinion of your memorialists, be more than forty times the whole value of the lands sought to be purchased of the Government, and the right of way of the strip required for the construction of the road could not bear the slightest comparison with the value of the services offered to be performed. The pre-emption right of purchase on a credit, and the strip of land asked to be given, is then all that your memorialists seek in return for the offered service of the daily transportation of the mail by railroad cars, a distance of three hundred miles, for sixty years, which will be found, on a calculation, supposing the service to be worth only one dollar per mile or three hundred dollars per day for the distance of 300 miles daily transport, calculating the route both ways, to amount in 60 years to the sum of six millions five hundred and fifty-two thousand dollars.

The advantages which would accrue to the Government from the acceptance of this offer, is thus demonstrable by actual calculation, even supposing that the data upon which it is based should be too great by one half. It is scarcely deemed necessary to remark that the celerity of this species of transportation must eventually produce a compulsory action towards its adoption for all mail facilities between distant and important points of our extended confederacy, and there can be little doubt that the public interests, when considered with reference to a state of peace, but more especially that of war, will demand it; nor can it be supposed that the ordinary means of mail transportation will satisfy the reasonable expectations of the community, whose rapidly-increasing communications will justly require the same increased speed in their transmission as may be enjoyed and obtained by private conveyance. The objects to be ob-

tained by the establishment of the Post Office Department of this Government would otherwise be lost, and the principles of its erection destroyed and superseded by individual enterprise. Of what benefit will the public mails be if private conveyances in point of speed and at little or no expense, are to be rendered so much more desirable because of their celerity? Believing that these considerations need only to be stated to be rendered obvious, your memorialists will, in conclusion, merely refer to the importance of the proposed connexion of Galena with Chicago.

The inexhaustible mineral resources of the region in which Galena is situated, and the facilities which the proposed communication would offer for the transport of the vast quantities of lead and other ores which are smelted there, to the Atlantic and Eastern States are unappreciable. The reduction of expense of transportation on this route over the one now in use on the Mississippi by New Orleans, would enable the holders of these ores to deliver them on the Atlantic board at a reduction of one-half of its present cost. An immense tonnage of shipping leaves the port of Chicago in sand ballast every year, for the want of freight. Lead would be gladly received and transported to Buffalo free of charges by these vessels. Hence it is obvious that the price of lead would be lessened by this cause. Other considerations with reference to the eventual transport and shipment of the productions of Illinois might be stated and enlarged upon; but, as it is the purpose of your memorialists to state propositions rather than to offer arguments to enforce the justice of their character, they forbear to enter into a field which, if diligently reaped, would afford a harvest of the most cogent reasons in support of the reasonable character of the grant they seek, and of the highly valuable nature of the service they propose in return for the concession asked, vastly beneficial alike to the Government and the community.

Office of the Galena and Chicago Union Railroad Company, November 30, 1836.

At a meeting of the board of directors of the company, it was

Resolved, That the aforegoing memorial be adopted and presented to the Congress of the United States, and that the same be authenticated under the hand of the president and the seal of the company.

[SEAL.] THEO. W. SMITH, *President*.

An act to incorporate the Galena and Chicago Union Railroad Company.

Theo's W. Smith, President; Edmund D. Taylor, Josiah C. Goodhue, John T. Temple, George Smith, Ebenezer Peck, James H. Collins, Directors.

SEC. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That all such persons as shall become stockholders agreeably to the provisions of this act, in the corporation hereby created, shall be, and for the term of sixty years from and after the pas-

sage of this act, shall continue to be a body corporate and politic, by the name of the "GALENA AND CHICAGO UNION RAILROAD COMPANY," and by that name shall have succession for the term of years above specified, may sue and be sued, complain and defend, in any court of law or equity; may make and use a common seal, and alter the same at pleasure; may make by-laws, rules, and regulations for the management of its property, the regulation of its affairs, and for the transfer of its stock, not inconsistent with the existing laws and the constitution of this State and of the United States; and may moreover appoint such subordinate agents, officers, and servants, as the business of the said corporation may require, and allow to them a suitable compensation, prescribe their duties, and require bond for the faithful performance thereof, in such penal sums, and with such sureties as they may choose, who shall hold their offices during the pleasure of a majority of the directors of the said corporation.

SEC. 2. The said corporation shall have the right to construct, and during its continuance, to maintain and continue a railroad with a single or double track, and with such appendages as may be deemed necessary for the convenient use of the same, from the town of Galena, in the county of Joe Daviess, to such point at the town of Chicago as shall be determined after a survey shall have been made of the route, to be the most eligible, proper, direct, and convenient therefor.

SEC. 3. The capital stock of the said corporation shall be one hundred thousand dollars, which shall be deemed personal property, and shall be divided into shares of one hundred dollars each. The capital stock of said corporation may, at any time hereafter, be increased to a sum not exceeding one million of dollars, if the same shall be judged necessary to the completion of the said work; and the same shall be subscribed for and taken under the direction of the directors of the said corporation, wherever they shall direct one or more books to be opened for such purpose, and shall be subscribed and taken in such manner as the directors of the said corporation for that purpose shall order and appoint.

SEC. 4. That William Bennett, Thomas Drummond, J. C. Goodhue, Peter Semple, J. W. Turner, E. D. Taylor, and J. B. Thomas, jr., shall be commissioners for securing subscriptions to the capital stock of said corporation, who shall give notice within twelve months after the passage of this act of the time and place where books will be opened at Galena and Chicago, and such other places as they may deem necessary, in some public newspaper printed at the said places, at least thirty days previous to the opening such books, for the receiving subscriptions to the capital stock of said corporation. The majority of the commissioners shall attend at the time and place appointed by such notice for the opening of said books, and shall continue to receive such subscriptions to the capital stock of said corporation, from all persons who will subscribe thereto, until the whole amount thereof shall have been subscribed, when the said books shall be closed. Each subscriber, at the time of subscribing, shall pay to the commissioners one dollar on each share of the stock subscribed for by him; and the said commissioners shall, as soon as the directors are elected, deliver to them the whole amount so received.

SEC. 5. The affairs of said corporation shall be managed by a board of seven directors, to be annually chosen by the stockholders from among

themselves, as soon as may be after the stock has been subscribed. The commissioners shall give notice of the time and place at which a meeting of the stockholders will be held for the choice of directors; and at such time and place appointed for that purpose, the commissioners, or a majority of them, shall attend and act as inspectors of said election; and the stockholders present shall proceed to elect their directors by ballot, and the commissioners present shall certify the result of such election, under their hands, which certificate shall be recorded in the books of the corporation, and shall be sufficient evidence of the election of the directors therein named.

All future elections shall be held at the time and in the manner prescribed by the by-laws and regulations of the said corporation. Each stockholder shall be allowed as many votes as he owns shares at the commencement of such election, and a plurality of votes shall determine the choice; but no stockholder shall be allowed to vote at any election after the first, for any stock which shall have been assigned to him within thirty days previous to holding such election.

The said directors shall hold their offices for one year after their election, and shall elect one of their number as president of the said board.

Sec. 6. The said corporation is authorized to construct, make, and use, a single or double railroad, or way, of suitable width and dimensions, to be determined by the said corporation, on the line, course, or way, which may be designated and selected by the directors as the line, course, or way whereon to construct or make the same; and shall have power to regulate the time and manner in which goods, effects, and passengers shall be transported, taken, and carried on the same; and to prescribe the manner in which the said railroad shall be used; by what force the carriages to be used thereon may be propelled; and the rate of toll for the transportation of persons or property thereon; and shall have power to erect and maintain houses, toll-gates, and other buildings, for the accommodation and management of the said road, and transport thereon as may be deemed suitable to their interest. And they may also construct, maintain, and use such other lateral routes as may be deemed advantageous and expedient, and necessary, under the same rights and privileges as by this act is provided for the constructing of the main route. And it shall be lawful, also, for the said corporation to unite with any other railroad company already incorporated, or which may be incorporated upon any part of the route of said road, upon such terms as may be agreed upon by the directors of said companies; and also to construct such other and lateral routes as may be necessary to connect them with any other route or routes which may be deemed expedient.

Sec. 7. If, at any time after the passage of this act, it shall be deemed advisable by the directors of the said corporation to make and construct a good and permanent turnpike road upon any portion of the route of the railroad by this act authorized to be constructed, then the said directors are hereby authorized and empowered to construct a turnpike, on any portion of the said route, of the following dimensions: not less than one hundred feet wide, twenty-two feet of which shall be based with stone or gravel or other hard substance, well compacted together, and of sufficient depth to secure a good foundation where necessary, the whole of which shall be faced with gravel or stone of a depth not less than six

inches, in such manner as to secure a firm and even surface, rising in the middle by a gradual arch; and where other roads may intersect, it shall be so constructed that carriages may conveniently pass over the turnpike road. And the said corporation is hereby authorized to erect at both ends of said road, and at such other points upon the line thereof, as many gates as shall be deemed necessary thereon.

Sec. 8. It shall be lawful for said corporation to appoint toll-gatherers to collect and receive of and from all persons using said road, the following rates of toll, to wit: For each and every mile of transport or travel upon the said turnpike road, for a man and horse, two cents; or for a single person, one cent; for four or six horses or ox wagon and driver, loaded, three cents, and for the same when empty, two cents; for all four-horse carriages and driver, five cents; for a two-horse wagon or one yoke of oxen and wagon, three cents; for two-horse pleasure carriages, four cents; for a one-horse carriage or gig, two cents; for horses, mules, or cattle in droves, half a cent per head; for hogs, goats, and sheep, one mill per head; when sleds are used instead of wheels, one-half of the above-specified toll. And it shall be lawful for any toll-gatherer to stop and detain any person from going on said road until he shall pay to him the toll properly chargeable to him, and when any person shall pay to the toll-gatherer the toll chargeable to him, the toll-gatherer shall give to him a ticket authorizing him to pass the whole distance of the road for which he has paid. And the president and directors shall cause to be kept upon each gate, in some conspicuous place where it may be easily read, a printed list of the tolls which may be lawfully demanded. Said corporation shall cause to be erected mile-posts or stones to be maintained, and also erect guide-posts at the intersection of all highways leading into or from such turnpike road, on which shall be inscribed the name of the town or public place to which it leads; and if any person shall wilfully cut down such posts, or shall wilfully break or throw down any of the said gates or turnpike, or shall dig or spoil any of the said road, or any thing thereunto belonging, or shall forcibly pass either of the gates without first having paid the legal tolls, such person shall pay and forfeit for every such offence and injury, the sum of twenty-five dollars, to be recovered by the said corporation in an action of debt before any justice of the peace of the county where the offender or offenders may be found; and if any person shall turn out of the said road and pass any of the gates, and again enter upon such road to avoid the payment of toll, he shall forfeit to the corporation the sum of five dollars, to be recovered in like manner.

Sec. 9. If any toll-gatherer shall unreasonable delay or hinder any traveller or passenger, or shall demand more toll than by this act is allowed, he shall forfeit and pay to the person injured the sum of five dollars, in the manner provided in the preceding section; and if he shall be unable to pay it, the corporation shall be held responsible therefor.

Sec. 10. As soon as five miles of the turnpike road shall be completed, said corporation may erect gates thereon and collect the toll allowed by this act. And it shall be the duty of the said corporation, when said road shall have been completed, to keep it in good repair; and whenever, from any cause whatever, the same shall become injured, said corporation shall immediately proceed to repair the same. And it shall

be lawful for the said corporation to commence the construction of the said railroad, or way, or turnpike, at such points on any part of the aforesaid route or routes hereinbefore described, as in its judgment may appear expedient and proper. Said corporation are authorized to borrow any sum of money which may, in their discretion, be deemed necessary, not exceeding its capital stock, to aid in the construction of the said roads; and if it shall at any time appear to the said corporation that any part thereof, or any surplus funds, is not necessary to be retained, the same may be loaned on such terms as the directors of the said corporation may deem proper; not, however, at a higher rate of interest than that now allowed by the laws of this State.

Sec. 11. In case the corporation shall not be able to acquire the title to the lands through which the said road shall be laid, by purchase or voluntary cession, it shall be lawful for the said corporation to appropriate so much of said lands as may be necessary for its own use, for the purposes contemplated by this act, on complying with the provisions of the six following sections:

Sec. 12. The directors may present a petition to the judge of the circuit court of the county in which the said land may be situate, setting forth, by some proper description, the lands which are wanted for the construction of said railroad or turnpike, or the appendages thereto; and the names of the owners thereof, if known, distinguishing, with convenient certainty, if it can be done, the parcels claimed in severalty by the respective owners, and praying for the appointment of appraisers to assess the damages which the owners of said land will severally sustain by reason of the appropriation thereof, by the said corporation, to its own use.

Sec. 13. On the presentment of such petition, said circuit judge shall appoint a day for the hearing of the parties in interest, and shall direct such notice as he shall deem resonable to be given of the time and place of hearing; and in case it shall appear that any of the owners of said lands is a *femme covert*, an infant, or insane, or otherwise incompetent to take proper care of his or her interest, it shall be the duty of the said judge to appoint some discreet and reputable person to act in the premises in his or her behalf.

Sec. 14. At the time appointed for such hearing, the said judge shall appoint three disinterested persons, freeholders, residents of the county in which said lands may lie, for the purpose of assessing such damages, and in the order in which they were appointed, shall direct and specify what lands are proposed to be appropriated and occupied by the said corporation, for the purposes aforesaid.

Sec. 15. Said appraisers, after being duly sworn before some officer properly authorized to administer oaths, honestly and impartially to assess such damages, shall proceed by viewing said lands, and by such other evidence as the parties may produce before them, to ascertain and assess the damages which each individual owner will sustain by the appropriation of his lands for the use or accommodation of such railroad or turnpike, or their appendages.

Sec. 16. The said appraisers shall make a report to the said judge, in writing, under their hands, reciting the order for their appointment, and specifying the several parcels described therein, with all necessary cer-

tainty; the names of the owners of the respective parcels, if known, and if not known, stating that fact; and specifying, also, the damages which the owners of the said respective parcels will sustain by reason of the appropriation of the same for the purposes aforesaid: and in case either of the parties is dissatisfied with the assessment, the said judge may, on the hearing of the parties and interest, modify the assessment as to him shall appear just.

Sec. 17. On the payment of the damages thus assessed, together with the expenses of assessment, as the same shall be settled by said judge, or on depositing the amount thereof for the use of such owners in such bank or moneyed incorporation as the said judge shall direct, the said corporation shall immediately become entitled to the use of said lands for the purposes aforesaid; and the report of the said appraisers, with the order of said judge, modifying the same, if the same shall have been modified, shall be recorded in the office of the recorder of the county in which said lands shall be situate, in the same manner and in the like effect as deeds are recorded, without any other proof than the certificate of the said judge that the report is genuine.

Sec. 18. And when the said order shall have been so recorded as aforesaid, the said corporation shall be seized and possessed of such land or real estate, and may enter upon and take possession, and use the same, for the purposes hereinbefore recited.

Sec. 19. Said corporation shall be bound to repair all public highways, bridges, and water-courses, which may be injured in constructing said railroad or its appendages; and shall restore them, as far as practicable, to as good a condition as they were before they were injured.

Sec. 20. The said corporation shall be allowed three years from the passage of this act for the commencement of the construction of the said railroad and turnpike; and in case the same shall not be completed within ten years thereafter, the privileges herein granted shall be forfeited.

Sec. 21. Any person who shall wilfully injure said road, or any of the appendages thereto, shall be deemed guilty of a misdemeanor, and shall forfeit, to use of the corporation, a sum equal to three times the amount of damages occasioned by such injury, to be recovered, with costs of suit, in the name of such corporation, in an action of debt, before any court having cognizance thereof, or before any justice of the peace in the county where such injury or offence may have been committed.

Sec. 22. This act shall be deemed and taken as a public act, and shall be construed beneficially for all purposes herein specified or intended; and all copies thereof, printed by or under the direction of the General Assembly of this State, shall be received in all courts and places whatsoever in said State as sufficient evidence thereof, without further proof.

JAMES TEMPLE,
Speaker of the House of Representatives.
A. M. JENKINS,
Speaker of the Senate.

Approved, January 16, 1836.

JOSEPH DUNCAN.

STATE OF ILLINOIS, *Department of State*:

I, Alexander P. Field, Secretary of State of the State of Illinois, do certify the foregoing to be a true copy of the enrolled bill on file in this department.

[L. s.] In testimony whereof, I have hereunto signed my name, and affixed the State seal, at Vandalia, the 29th January, 1836.

A. P. FIELD, *Secretary of State.*

POST OFFICE DEPARTMENT,
January 12, 1837.

SIR: I have had the honor to receive your note of the 11th instant, enclosing the memorial of the Galena and Chicago Railroad Company, and asking whether, in my opinion, the public service will be promoted by granting the prayer of the memorialists.

My sense of the importance of railroads in the transportation of the mails has often been expressed, and it is by no means diminished by time and experience. The road in question, when completed, will be of great importance as a mail line, and its free use in that respect is undoubtedly worth a high price. The transportation of the mails upon it, when that region becomes populous, cannot be expected to cost less than $12,000 per annum, at a moderate rate of compensation; and probably long before the termination of the charter, it would cost double that sum. It appears to me that services so valuable and so important would be cheaply puchased by a grant of the donation and pre-emption asked for, with a reversion to the United States, or some other equivalent security, if the work should not be completed within a reasonable time.

If, however, an arrangement be made, it should be stipulated that the company shall receive and deliver the mails at the post offices near the ends of the road, shall supply all post offices which shall be established upon the line, and shall carry the mail daily, and as much oftener as they may at any time run trains of passenger cars, to be secured in such manner as shall be required by the Postmaster General.

In conclusion, I have only further to remark that, in my opinion, so far as the United States and their interests are concerned, no more useful disposition can be made of the public lands than to exchange them in moderate and reasonable quantities for the permanent use of the railroads in transporting the mails, the troops, the munitions of war, and other public property of the United States, free of charge. The memorial is herewith returned.

Very respectfully,
Your obedient servant,
AMOS KENDALL.

Hon. WM. HENDRICKS, *Chairman*
Committee on Roads and Canals, U. S. Senate.

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